

MEMORANDUM

Agenda Item No. 11(A)(17)


TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: September 7, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution urging the United States Congress to pass S. 3219, titled the Housing Accountability Act of 2016, or similar legislation; urging the Secretary of the United States Department of Housing and Urban Development to implement regulations pursuant to that Act

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Rebeca Sosa.



Abigail Price-Williams
County Attorney



APW/smm



MEMORANDUM

(Revised)

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Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☒ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor

Agenda Item No. 11(A)(17)

Veto _____

9-7-16

Override _____

RESOLUTION NO. _____

RESOLUTION URGING THE UNITED STATES CONGRESS TO PASS S. 3219, TITLED THE HOUSING ACCOUNTABILITY ACT OF 2016, OR SIMILAR LEGISLATION; URGING THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO IMPLEMENT REGULATIONS PURSUANT TO THAT ACT

WHEREAS, the United States Housing Act of 1937, as amended, provides for the federal housing program known as the Section 8 Housing Choice Voucher Program and Section 8 Moderate Rehabilitation Program (“Section 8 Programs”); and

WHEREAS, the purpose of Section 8 Programs are to provide subsidized rental housing assistance to eligible low-income families, the elderly and disabled (“Section 8 Participants”), who rent dwelling structures from private owners (“Section 8 Owners”); and

WHEREAS, Section 8 Programs are administered and regulated by the United States Department of Housing and Urban Development (“HUD”); and

WHEREAS, HUD has promulgated regulations codified in Volume 24 of the Code of Federal Regulations that govern the Section 8 Programs; and

WHEREAS, the United States Housing Act of 1937 and the regulations authorize HUD to enter into Annual Contribution Contracts (“ACCs”) with local public housing authorities (“PHAs”); and

WHEREAS, Miami-Dade County (the “County”) is one of four PHAs in this jurisdiction; and

WHEREAS, the County and HUD have entered into ACCs authorizing the County to receive federal funds to operate and administer the Section 8 Programs in this jurisdiction; and

WHEREAS, the County operates the Section 8 Programs through the Miami-Dade Public Housing and Community Development Department and a private contractor, Nan McKay & Associates, Inc.; and

WHEREAS, Section 8 Programs require, among other things, that prior to a PHA paying housing assistance payments to a Section 8 Owner, each housing unit must pass a housing quality standards inspection, the tenant must enter into a lease with the Section 8 Owner and the PHA must enter into a Housing Assistance Payments Contract ("HAP Contract") with each Section 8 Owner; and

WHEREAS, the federal regulations promulgated by HUD and the HAP Contract require that Section 8 Owners comply with certain housing quality standards, which ensure "decent, safe and sanitary" housing at an affordable cost to low-income families; and

WHEREAS, each housing unit subsidized through the Section 8 Programs must initially and continually meet the housing quality standards before assistance can be paid on behalf of a family throughout the term of the HAP Contract and the lease agreement between the tenant and the Section 8 Owner; and

WHEREAS, in the event a Section 8 Owner fails to comply with the housing quality standards each PHA is authorized to terminate the HAP Contract, suspend or reduce the housing assistance payments; and

WHEREAS, the United States Housing Act of 1937, the regulations promulgated by HUD, and the HAP Contract do not currently allow PHAs to impose monetary penalties against Section 8 Owners for failing to comply with the housing quality standards; and

WHEREAS, S. 3219, a bipartisan bill recently introduced by United States Senators Bill Nelson (D – Florida) and Marco Rubio (R – Florida), titled the Housing Accountability Act of 2016, would amend the United States Housing Act of 1937 to allow the Secretary of HUD to impose monetary penalties on any owner of a structure under a HAP Contract for failing to maintain decent, safe, and sanitary housing conditions; and

WHEREAS, this Board is committed to improving the general welfare of the citizens of Miami-Dade County; and

WHEREAS, this Board believes that increased compliance with housing quality standards would benefit families assisted through the County's Section 8 Programs, ensure each subsidized housing unit is maintained by Section 8 Owners in a decent, safe and sanitary manner, and increase the number of quality housing units in Miami-Dade County while reducing the number of housing units that currently pose a risk to the health and safety of the residents of Miami-Dade County; and

WHEREAS, this Board believes that the monetary penalties that would be authorized by the Housing Accountability Act of 2016, or similar legislation, against noncompliant Section 8 Owners would further this Board's commitment to providing decent, safe and sanitary housing to all families participating in the Section 8 Programs,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Urges the United States Congress to pass S. 3219, the Housing Accountability Act of 2016, a copy of which is attached hereto and incorporated by reference, or similar legislation, that would amend the United States Housing Act of 1937 to allow the United States

Secretary of Housing and Urban Development to impose monetary penalties on any owner of a structure under a Housing Assistance Payments Contract for failing to maintain decent, safe, and sanitary housing conditions.

Section 2. Urges the United States Secretary of Housing and Urban Development to promulgate all regulations necessary to implement S. 3219, the Housing Accountability Act of 2016.

Section 3. Directs the Clerk of the Board to transmit certified copies of this resolution to United States Senators Bill Nelson and Marco Rubio, the remaining members of the Florida Congressional Delegation, and the United States Secretary of Housing and Urban Development.

Section 4. Directs the County's federal lobbyists to advocate for the passage of the legislation and administrative action set forth in Sections 1 and 2 above, and directs the Office of Intergovernmental Affairs to amend the 2016 Federal Legislative Package to include this item and to include this item in the 2017 Federal Legislative Package when it is presented to the Board.

The Prime Sponsor of the foregoing resolution is Commissioner Rebeca Sosa. It was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Jean Monestime, Chairman	
Esteban L. Bovo, Jr., Vice Chairman	
Bruno A. Barreiro	Daniella Levine Cava
Jose "Pepe" Diaz	Audrey M. Edmonson
Sally A. Heyman	Barbara J. Jordan
Dennis C. Moss	Rebeca Sosa
Sen. Javier D. Souto	Xavier L. Suarez
Juan C. Zapata	

The Chairperson thereupon declared the resolution duly passed and adopted this 7th day of September, 2016. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

D.S.

Dayron Silverio

114TH CONGRESS
2D SESSION

S. 3219

To provide standards for physical condition and management of housing receiving assistance payments under section 8 of the United States Housing Act of 1937.

IN THE SENATE OF THE UNITED STATES

JULY 14, 2016

Mr. NELSON (for himself and Mr. RUBIO) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To provide standards for physical condition and management of housing receiving assistance payments under section 8 of the United States Housing Act of 1937.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Housing Accountability
5 Act of 2016”.

1 **SEC. 2. STANDARDS FOR PHYSICAL CONDITION AND MAN-**
2 **AGEMENT OF HOUSING RECEIVING ASSIST-**
3 **ANCE PAYMENTS.**

4 Section 8 of the United States Housing Act of 1937
5 (42 U.S.C. 1437f) is amended by inserting after sub-
6 section (v) the following:

7 “(w) STANDARDS FOR PHYSICAL CONDITION AND
8 MANAGEMENT OF HOUSING RECEIVING ASSISTANCE PAY-
9 MENTS.—

10 “(1) STANDARDS FOR PHYSICAL CONDITION
11 AND MANAGEMENT OF HOUSING.—Any entity receiv-
12 ing assistance payments under this section shall
13 maintain decent, safe, and sanitary conditions, as
14 determined by the Secretary, for any structure cov-
15 ered under a housing assistance payment contract.

16 “(2) SURVEY OF TENANTS.—The Secretary
17 shall develop a process by which a Performance-
18 Based Contract Administrator shall, on a semi-
19 annual basis, conduct a survey of the tenants of
20 each structure covered under a housing assistance
21 payment contract for the purpose of identifying con-
22 sistent or persistent problems with the physical con-
23 dition of the structure or performance of the man-
24 ager of the structure.

25 “(3) REMEDIATION.—A structure covered
26 under a housing assistance payment contract shall

1 be referred to the Secretary for remediation if a Per-
 2 formance-Based Contract Administrator identifies a
 3 consistent or persistent problem with the structure
 4 or the management of the structure based on—

5 “(A) a survey conducted under paragraph
 6 (2); or

7 “(B) any other observation made by the
 8 Performance-Based Contract Administrator
 9 during the normal course of business.

10 “(4) PENALTY FOR FAILURE TO UPHOLD
 11 STANDARDS.—

12 “(A) IN GENERAL.—The Secretary may
 13 impose a penalty on any owner of a structure
 14 covered under a housing assistance payment
 15 contract if the Secretary finds that the struc-
 16 ture or manager of the structure—

17 “(i) did not satisfactorily meet the re-
 18 quirements under paragraph (1); or

19 “(ii) is repeatedly referred to the Sec-
 20 retary for remediation by a Performance
 21 Based Contract Administrator through the
 22 process established under paragraph (3).

23 “(B) AMOUNT.—A penalty imposed under
 24 subparagraph (A) shall be in an amount equal
 25 to not less than 1 percent of the annual budget

1 authority the owner is allocated under a hous-
2 ing assistance payment contract.

3 “(C) USE OF AMOUNTS.—Any amounts
4 collected under this paragraph shall be used
5 solely for the purpose of supporting safe and
6 sanitary conditions at applicable structures or
7 for tenant relocation, as designated by the Sec-
8 retary, with priority given to the tenants of the
9 structure that led to the penalty.

10 “(5) APPLICABILITY.—This subsection shall not
11 apply to any property assisted under subsection
12 (o).”.

13 **SEC. 3. ISSUANCE OF REPORT.**

14 Not later than 1 year after the date of enactment
15 of this Act, the Secretary of Housing and Urban Develop-
16 ment shall submit to Congress a report that—

17 (1) examines the adequacy of capital reserves
18 for each structure covered under a housing assist-
19 ance payment contract under section 8 of the United
20 States Housing Act of 1937 (42 U.S.C. 1437f);

21 (2) examines the use of funds derived from a
22 housing assistance payment contract for purposes
23 unrelated to the maintenance and capitalization of
24 the structure covered under the contract; and

- 1 (3) includes any administrative or legislative
- 2 recommendations to further improve the living con-
- 3 ditions at those structures.

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